

# CITY COUNCIL AGENDA

**APRIL 8, 2003**

## SYNOPSIS

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

**Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.ci.san-jose.ca.us/cty\\_clk/agenda.htm](http://www.ci.san-jose.ca.us/cty_clk/agenda.htm)**

**To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.**

**On occasion the City Council may consider agenda items out of order.**

- **Call to Order and Roll Call**

9:32 a.m. - Closed Session, Room 600, City Hall

**Absent Council Members: Campos, Chavez; Gonzales.**

1:33 p.m. - Regular Session, Council Chambers, City Hall

**Absent Council Members: Gonzales.**

- **Invocation (District 4)**

**Will Mubashir Chaudry, Imam at Bait ul Baseer recited a prayer for peace from the Holy Koran.**

- **Pledge of Allegiance**

**Vice Mayor Dando led the Pledge of Allegiance.**

**Council Member Chirco welcomed the leadership class students and officers from the John Muir Junior High Middle School, who had taken a tour of City Hall to obtain a better understanding of the roles and functions of local government.**

**Council Member Reed introduced Sean Deleev, a San José Youth Commissioner who was touring and learning about City Hall as part of the Youth Commission's program.**

**Council Member Chavez introduced the students, and Vice Principal of the San José Academy who were visiting City Hall on a "Shadow Day", and interacting with the Council Members.**

- **Orders of the Day**

**The Orders of the Day were approved.**

# 1 CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring the week of April 6, 2003 to April 12, 2003 as Building Safety Week. (Planning, Building, and Code Enforcement)  
**On behalf of Mayor Gonzales, and the Council Members, Vice Mayor Dando presented a proclamation to Director of Public Works Katy Allen, Acting Fire Chief Dale Foster, Deputy Director of Planning Services Laurel Prevetti, and Chief Planning Check Engineer Larry Wang for Building Safety Week in recognition of their ability of ensuring that building and construction in San José meets the rigorous standards that protect the health and safety of the community.**
- 1.2 Presentation of a proclamation declaring April 2003, the Month of the Young Child. (Chirco)  
(Rules Committee referral 4/2/03)  
**On behalf of Mayor Gonzales, Vice Mayor Dando, and the Council Members, Council Member Chirco presented a proclamation to Lisa Giannotti, and the Month of the Young Child Committee. In recognizing April 2003 as the Month of the Young Child, the City of San José reaffirms a continuing commitment to help ensure the health, welfare, safety and education of our youngest residents through effective community programs and services that support families with young children.**
- 1.3 Presentation of a proclamation to the Santa Clara County Child Abuse Council in recognition of Child Abuse Prevention Month. (Chavez/Dando/Williams)  
(Orders of the Day)  
**On behalf of Mayor Gonzales, Vice Mayor Dando, Council Member Chavez, and the Council Members, Council Member Williams presented a proclamation to Mr. Nick Fay of the Santa Clara County Child Abuse Council, in recognition of April 2003 Child Abuse Prevention Month. Established in 1980, the Santa Clara County Child Abuse Council actively develops, supports and coordinates community efforts to prevent child abuse and heals its effects. All residents and organizations in our community are encouraged to join in this fight to end child abuse and neglect so that together all our children can have a safe, healthy, stable and quality life.**
- 1.4 Presentation of a commendation to the Consul General of Portugal for taking the leadership in gathering community members to write on behalf of the entire Portuguese community of San Jose, *“The Holy Ghost Festas, A Historic Perspective of the Portuguese in California”*. (Chavez)  
Orders of the Day  
**On behalf of Mayor Gonzales, Vice Mayor Dando, and the City Council, Council Member Chavez congratulated and commended the individuals, and the sponsoring organizations that researched, wrote, and produced the book, *“The Holy Ghost Festas, A Historic Perspective of the Portuguese in California.”* The Consul General of Portugal Tony Goulart presented a copy of the book to Mayor Gonzales and each Council Member.**

## 2 CONSENT CALENDAR

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### 2.1 Approval of Minutes.

**Recommendation:** Approval of City Council Minutes for:

- (a) Regular meeting of August 6, 2002
- (b) Regular meeting of August 13, 2002
- (c) Joint City Council/Redevelopment Agency Board meeting of August 13, 2002

**Approved.**

### 2.2 Final adoption of ordinances. None.

### 2.3 Approval of a contract for the Ramblewood Park Play Area Renovation and Restroom Project.

**Recommendation:** Report on bids for Ramblewood Park Play Area Renovation and Restroom Project with the following recommendations:

- (a) Find the apparent low bidder, Playgrounds Unlimited, not responsible for failure to timely perform park renovation construction contracts awarded to it during 2002; and
- (b) Award the contract to the lowest responsible and responsive bidder, JFC Construction, Inc., in the amount of \$270,068, and approval of a contingency in the amount of \$13,500.

CEQA: Exempt, PP02-12-392. Council District: 7. SNI Area: NA. (Public Works)  
(Deferred from 1/28/03 – Item 2.8 et al., and 3/18/03 – Item 2.3)

**Deferred to 4/15/03 and renumbered to Item 5.x.**

### 2.4 Approval of an ordinance to implement changes to the Child Care Commission.

**Recommendation:** Approval of an ordinance amending Chapter 2.08 of Title 2 of the San José Municipal Code by repealing Part 18 and adding a new Part 25, to change the name of the Child Care Commission to the Early Care and Education Commission, and to increase the number of members of the Commission. (City Attorney's Office)

**Ordinance No. 26866 was passed for publication.**

### 2.5 Approval to acquire land for the development of a mini-park/streetscape at Gleason Ave at San Tomas Aquino Parkway.

**Recommendation:** Approval of an agreement with the County of Santa Clara for the conveyance of a property located at the easterly terminus of Gleason Avenue at San Tomas Aquino Parkway to the City of San José at no cost to the City, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Exempt, PP02-02-018. Council District 1. SNI Area: Blackford. (Public Works)

**Deferred to 4/29/03 and referred to Rules Committee.**

## 2 CONSENT CALENDAR

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### 2.6 Approval of various fiscal actions related to the Partners in Reading Literacy Program.

**Recommendation:** Adoption of appropriation ordinance and funding source resolution amendments in the General Fund:

(a) Increasing the Library Grants appropriation by \$72,046.

(b) Increasing the estimate for revenue from the State of California by \$72,046.

CEQA: Not a Project. (City Manager's Office)

**Ordinance No. 26867 was adopted.**

**Resolution No. 71486 was adopted.**

### 2.7 Approval of an agreement for an electrical systems improvements study at the Water Pollution Control Plant.

**Recommendation:** Approval of an agreement with the consulting firm, YEI Engineers, Inc., for the engineering study entitled "San José/Santa Clara Water Pollution Control Plant: WPCP Electrical Systems Improvement Study," for an agreement amount not to exceed \$314,068, including the amount of \$28,600 for additional services, and a term of the agreement from May 1, 2003 to September 30, 2004. CEQA: Not a Project. (Environmental Services)

**Approved.**

### 2.8 Approval to submit ongoing funding requests to the California Department of Conservation.

**Recommendation:** Adoption of a resolution authorizing the Director of the Environmental Services Department to submit ongoing funding requests for any and all eligible funds from the California Department of Conservation, Division of Recycling, to accept the funds on behalf of the City of San Jose; and execute all documents related to the application, including a funding request in the amount of \$258,785 for the State's 2003/2004 funding cycle. CEQA: Not a Project. (Environmental Services)

**Resolution No. 71487 was adopted.**

### 2.9 Approval to form an Independent Hearing Panel.

**Recommendation:** Adoption of a resolution authorizing the formation of a three member Independent Hearing Panel for solid waste enforcement and permitting, consisting of a technical expert, a member of the public, and a member of the City Council. CEQA: Not a project. (Planning, Building and Code Enforcement)  
(Deferred from 4/1/03 – Item 2.11)

**Resolution No. 71488 was adopted.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

#### 3.2 Report of the Rules Committee – March 26, 2003

Vice Mayor Dando, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review April 8, 2003 Draft Agenda

**The Committee directed the City Clerk to place on the April 15, 2003 Council agenda, Council Member Reed's request for Council consideration of the adoption of a civil action ordinance related to the intentional disruptions of the airport security system. The Committee recommended approval of the April 8, 2003 City Council agenda.**

(2) Add New Items to April 1, 2003 Amended Agenda

**The Committee recommended six additions to the April 1, 2003 City Council agenda.**

(3) List of Reports Outstanding

**The Committee noted and filed the City Manager's report listing five staff reports outstanding for the April 1, 2003 Council meeting.**

(c) Legislative Update

(1) State

**The Committee accepted Director of Intergovernmental Relations Director Betsy Shotwell's update on the California State budget situation.**

(2) Federal

**There was no report.**

(d) Meeting Schedules

**There were none.**

(e) The Public Record

**The Committee noted and filed the Public Record.**

(f) Boards, Commissions and Committees

**There were none.**

(g) Council Referrals for Assignment to Administration or Council Appointee

**There were none.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules Committee – March 26, 2003 (Cont'd.)**

**Vice Mayor Dando, Chair**

- (h) Administrative Reviews and Approval  
**There were none.**
- (i) Oral communications  
**Ross Signorino suggested that cameras be installed on the City's street sweeping trucks to identify cars parked illegally on the day of service.**
- (j) Adjournment  
**The meeting adjourned at 2:20 p.m.**

**The Rules Committee Report and Actions of March 26, 2003, were accepted.**

#### **3.3 Report of the Making Government Work Better Committee**

**Council Member Campos, Chair**

**No Report.**

#### **3.4 Acceptance of the Airport Neighborhood Services Group Audit Report.**

##### **Recommendation:**

- (a) Accept "An Audit Of The Airport Neighborhood Services Group" report including the following specific recommendations suggested by the City Auditor and agreed to by Airport Staff:
  - (1) Recommendation #1 Develop a standardized constituent complaint form to document the nature of the complaint, how the issue was resolved, any follow-up action taken, and how long it took to resolve the complaint.
  - (2) Recommendation #2 Develop a standardized report format which includes comprehensive information on all areas of responsibility.
  - (3) Recommendation #3 Collaborate with, monitor, and report on the efforts of the other City entities that are responsible for the identified responsibilities.
  - (4) Recommendation #4 Collaborate with the identified City entities in the City Council's June 25, 2001 and November 13, 2001 memoranda and monitor and report on their progress and efforts regarding their respective areas of responsibility.
- (b) Approve the standardized report format (Attachment 1) as recommended by the City Auditor and enhanced by the Airport.

***(Item Continued on Next Page)***



### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.4 Acceptance of the Airport Neighborhood Services Group Audit Report. (Cont'd.)**

- (c) Develop a workplan for the ANSG to improve performance and reporting on the following:
  - (1) Evaluating the impact of flight patterns with the FAA;
  - (2) Working with the appropriate stakeholders to get airlines to change schedules to encourage compliance with the curfew;
  - (3) Working with the appropriate stakeholders to get airlines to use the quietest planes possible; and,
  - (4) Working with the appropriate staff to monitor noise and pollution infractions.
  - (5) To be proactive in reducing the impact of the Airport on local neighborhoods.
  - (6) To make Airport emissions data available to the public (i.e., website, Information Memos, community meetings, etc.).

CEQA: Not a project. (Airport)

[Making Government Work Better Committee referral 3/12/03 – Item 3.3(h)]

(Deferred from 4/1/03 -Item 3.6)

**Approved.**

**The Airport and Neighborhood Services Group to report back to the Building Strong Neighborhoods Committee on quarterly basis with the first report due August 2003, including any discussions with new airlines, and monitoring flight times to comply with the curfew; and the issue of supporting Federal legislation requiring quieter aircraft to go to Rules Committee for addition to the Legislative workplan.**

### **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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#### **4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair**

**No Report.**

#### **4.2 Report of the Driving a Strong Economy Committee – March 24, 2003 Council Member Williams, Chair**

- (a) Policy Discussion on the Review of the Parkland Dedication and Park Impact Ordinances  
**The Committee unanimously accepted the staff report.**
- (b) Report and Review of the Housing Rehabilitation Program  
**Deferred to 8/25/03.**
- (c) Review of the Homeless Plan  
**Deferred to 5/29/03.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.2 Report of the Driving a Strong Economy Committee – March 24, 2003 (Cont'd.) Council Member Williams, Chair**

- (d) Oral petitions  
**Bob Hines, Tri-County Apartment Association spoke on the current use and future strategy of parkland dedication in-lieu fees.**
- (e) Adjournment  
**The meeting was adjourned at 2:35 p.m.**

**The Driving a Strong Economy Committee Report and Actions of March 24, 2003, were accepted.**

### **4.3 Approval of fiscal actions related to the development of affordable housing.**

**Recommendation:** Adoption of the following Appropriation Ordinance amendments in the Low- and Moderate-Income Housing Fund:

- (a) Increase the Transfer to General Fund for Surplus Property Purchase appropriation by \$760,000.
  - (b) Decrease the Loan, Grants and Acquisitions appropriation by \$760,000.
- Council District 9. CEQA: Not a Project. (General Services/Housing/City Manager's Office)  
**Ordinance No. 26868 was adopted.**

## **5 RECREATION & CULTURAL SERVICES**

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### **5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair No Report.**

### **5.2 Approval of various actions related to the East Community Resource Center.**

**Recommendation:**

- (a) Approval of the award of Community Development Block Grant (CDBG) funds in the amount of \$550,000 to East Community Resource Center, using St. Vincent de Paul as fiscal agent, for the construction and/or rehabilitation of 960 Remillard Court;  
**Approved.**

- (b) Adoption of amendments to the appropriation ordinance in the CDBG Fund (Fund 441) to:
  - (1) Establish an appropriation of \$550,000 for the East Community Resource Center
  - (2) Decrease the Ending Fund Balance by \$550,000;**Ordinance No. 26869 was adopted.**

***(Item Continued on Next Page)***

## **5 RECREATION & CULTURAL SERVICES**

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### **5.2 Approval of various actions related to the East Community Resource Center. (Cont'd.)**

(c) Approval of the use of \$485,500 in unspent HNVF funds originally appropriated for the acquisition and/or rehabilitation of 1747-1795 Alum Rock Avenue, for the acquisition and/or rehabilitation of 960 Remillard Court; and  
**Approved.**

(d) Approval of the extension of the HNVF funding term for one year, from June 30, 2003 to June 30, 2004, for EH004: East San Jose Multi-Service Center (aka East Community Resource Center) - Society Of St. Vincent De Paul.  
CEQA: Not a Project. SNI: Spartan/Keyes. Council District 7. (Parks, Recreation and Neighborhood Services/City Manager's Office)  
(Rules Committee referral 4/2/03)  
**Approved.**

## **6 TRANSPORTATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair No Report.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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## **8 AVIATION SERVICES**

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## **9 PUBLIC SAFETY SERVICES**

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### **9.1 Approval to submit a grant application for the 2003 FEMA Assistance to Firefighters Grant Program.**

**Recommendation:** Adoption of a resolution authorizing the City Manager to submit a grant application for the FEMA 2003 Assistance to Firefighters Grant Program Award in the amount of \$798,828, for a term of one year from date of award; and to execute all documents necessary to accept the grant if awarded on or after July 1, 2003, provided that an amount equal to 30% matching share of the entire grant which is approximately \$239,648, has been appropriated in the Fire Department's 2003-2004 Adopted Operating Budget and/or the FY 2003-04 Capital Improvement Program Budget. CEQA: Not a Project. (Fire)  
(Rules Committee referral 4/2/03)

**Resolution No. 71489 was adopted.**

## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **Closed Session Report**

**No Report.**

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

**None.**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

**None.**

- **Open Forum—Heard jointly with Redevelopment Agency Public Discussion.**

- **Adjournment**

**The Council of the City of San José adjourned in memory of Gunnery Sgt. Joseph Menusa, once a resident of the San José Evergreen area, and Gulf War Veteran who was killed while fighting in Iraq.**

**The Council of the City of San José adjourned at 2:36 p.m.**

**THE FOLLOWING ITEM WAS HEARD AT THE JOINT REDEVELOPMENT/CITY COUNCIL MEETING OF APRIL 8, 2003.**

**7.2 Approval Actions related to the lease of property located at 170 South Market Street to Bijan Bakery & Café.**

**Recommendations:**

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the least of approximately 3,500 square feet at 170 South Market Street to Bijan Bakery & Café making certain findings and approving the lease.

**Resolution No. 71490 was adopted.**

- (b) Approval by the Agency Board of a lease between Bijan Bakery & Café (Tenant) and the Agency (Landlord) for the property located at 170 South Market Street, for a ten-year term with two five-year options and up to \$350,000 in Agency assistance for Tenant Improvements and a maximum of \$130,000 for Landlord Improvements

**CEQA: Exempt, PP03-03-089 [SAN ANTONIO PLAZA]**

**Approved.**